TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1957

No. 94

FRANK BONETTI, PETITIONER,

vs.

WILLIAM P. ROGERS, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR CERTIORARI FILED MARCH 25, 1957
CERTIORARI GRANTED DECEMBER 16, 1957

SUPREME COURT OF THE UNITED STATES

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IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12,885

FRANK BONETTI, *Appellant*

v.

HERBERT BROWNELL, Attorney General of the United States, et al., *Appellees*

Appeal from the United States District Court for the District of Columbia

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JOINT APPENDIX

Filed Oct. 5, 1953

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4606-'53

FRANK BONETTI, 1455 Avon Park Terrace, Los Angeles 26, California, *Plaintiff*,

v.

HERBERT BROWNELL, JR., Attorney General of the United States, Department of Justice, Washington, D. C.

and

ARGYLE R. MACKEY, Commissioner of Immigration and Naturalization, Department of Justice, Washington, D. C., *Defendants*.

Complaint for Review of Deportation Order and for Injunctive Relief

Frank Bonetti, by his attorneys, complaining of the defendants, alleges:

1. The Court has jurisdiction of this action under D.C. Code, sections 11-305 and 11-306, under 28 U.S. Code, section 1331, and under section 10 of the Administrative Procedure Act, 60 Stat. 243, 5 U.S. Code, section 1009. One of the purposes of this action is to enjoin the enforcement and execution of an act of Congress for repugnance to the Constitution, said act being a provision of section 22 of the Internal Security Act of 1950, amending the Immigration Act of October 16, 1918, which provision has been carried forward as section 241(a)(6)(C) of the Immigration and Nationality Act, 8 U.S. Code, Section 1251(a)(6)(C). Hence a three-judge court is required to be convened under 28 U.S. Code, sections 2282 and 2284.

2. The plaintiff, Frank Bonetti, is a native of France. He was admitted to the United States as an immigrant for permanent residence in 1923. He thereafter left the

United States and was admitted again for permanent residence in 1938. He last entered the country in the summer of 1939.

3. The defendant, Herbert Brownell, Jr., is the Attorney General of the United States. The defendant Argyle R. Mackey is the Commissioner of Immigration and Naturalization of the United States. The defendants are in charge of the administration of the statutes of the United States relating to the deportation of certain classes of aliens. Their principal offices are, and they may be found in, the District of Columbia.

4. On or about March 25, 1952, the defendant Mackey ordered that plaintiff be deported and on January 9, 1953, this order was affirmed by the Board of Immigration Appeals acting for the Attorney General. Upon its affirmance, said order of deportation became, and is, a final agency action for which judicial review is available under section 10 of the Administrative Procedural Act.

5. The deportation order against plaintiff was based solely on a finding that the plaintiff was a member of the Communist Party of the United States between 1932 and 1936, inclusive. No evidence was introduced in support of the order other than evidence of plaintiff's alienage and alleged former membership in the Communist Party. The hearing officer rejected evidence offered by the plaintiff to show that the Communist Party did not, at the time of plaintiff's alleged membership therein, advocate the overthrow of the government by force and violence.

6. The deportation order was based upon a finding by the defendants that the plaintiff had, subsequent to his entry into the United States, been a member of the Communist Party of the United States, and was therefore subject to deportation under the provisions of the aforementioned section 22 of the Internal Security Act of 1950.

7. The plaintiff has been ordered by the defendants to surrender to the Immigration and Naturalization Service

in Los Angeles at 10:00 a.m., October 6, 1953 with all his baggage and in readiness for deportation. Unless the defendants are restrained by the Court, they will deport him on or shortly after October 6, 1953.

8. The deportation order against plaintiff is unlawful, invalid, and violative of plaintiff's rights, for the reason that:

(a) The evidence does not support the finding that the plaintiff was a member of the Communist Party after entry into the United States.

(b) The deportation order was not supported by substantial evidence.

(c) The order and the statutory provision under which it was issued, on their face and as applied, constitute a bill of attainder and an ex post facto law, and violate the First Amendment, the due process clause of the Fifth Amendment, and the Sixth Amendment.

9. For the aforesaid reasons, plaintiff is imminently threatened with grave and irreparable injury, by illegal and unconstitutional acts of the defendants, for which he has no adequate remedy at law.

WHEREFORE, plaintiff prays for a judgment (1) setting aside the order of deportation made against the plaintiff; (2) enjoining the defendants from deporting or attempting to deport the plaintiff, from requiring him to surrender for deportation, and from otherwise molesting him; (3) awarding plaintiff the costs of this action; and (4) granting such other and further relief as may be appropriate. Plaintiff also prays for an appropriate temporary restraining order and for a preliminary injunction restraining the defendants pending the trial and disposition of this cause from deporting plaintiff, requiring him to surrender for deportation, or otherwise molesting him.

5 Filed June 2, 1955

Answer

Now comes the defendants by their attorney, the United States Attorney, and answer the complaint of plaintiff as follows:

FIRST DEFENSE

Responding specifically to the numbered paragraphs of the complaint the defendants aver:

1. Defendants are not required to answer the allegations contained in paragraph 1 of the complaint.

2. Admitted.

3. It is admitted that the defendant, Herbert Brownell, Jr., is the Attorney General of the United States and that the defendant, Argyle R. Mackey, was the Commissioner of Immigration and Naturalization at the time of the filing by the plaintiff of the within cause of action. It is further admitted that the defendant Herbert Brownell, Jr. is and defendant Argyle R. Mackey was in charge of the administration of the statutes of the United States relating to the deportation of certain classes of aliens. It is further admitted that the principal office of the defendant Herbert Brownell, Jr. is, and the principal office of the defendant Argyle R. Mackey was, within the District of Columbia.

4. It is admitted that an order of deportation was entered against the plaintiff on March 25, 1952 and that this
6 order was affirmed by the Board of Immigration Appeals on January 9, 1953. It is further admitted that by the action of the Board of Immigration Appeals on January 9, 1953 the order of deportation became final. The remaining allegations of paragraph 4 constitute conclusions of law and require no answer.

5. It is admitted that the order of deportation filed against the plaintiff is based upon a finding that the plaintiff was a member of the Communist Party of the United States between 1932 and 1936. It is denied that the only

evidence introduced in support of the order of deportation was proof of plaintiff's alienage and proof of his membership in the Communist Party of the United States. To the contrary, it is averred that, inter alia, there was proof of plaintiff's entry into the United States, there was the testimony of officers of the Immigration and Naturalization Service who testified in the hearings in deportation proceedings accorded the plaintiff and there was also testimony as given by the plaintiff in connection with prior proceedings before the Immigration and Naturalization Service. In addition, the defendant and officers of the defendant's agency considered the fact that the plaintiff stood mute during the course of the entire deportation proceeding. It is admitted that the hearing officer refused to receive in evidence certain evidence as offered by plaintiff with the alleged purpose of showing the character of the Communist Party of the United States.

6. Admitted, except that the order of deportation by its precise terms refers to the Act of October 16, 1918, as amended.

7. Denied.

8(a), (b) and (c). Denied.

9. Denied.

SECOND DEFENSE

For further answer and as a separate and complete defense to the complaint, the defendants aver that the complaint fails to set forth a cause of action upon which this Court may grant relief.

7

THIRD DEFENSE

For further answer and as a separate and complete defense to the complaint, defendants aver that the administrative proceedings have been properly conducted pursuant to law and regulation; that there has been no arbitrary and capricious determination made anywhere within the said

administrative proceedings; that the final result is premised upon a careful consideration of the entire administrative record and the application of the appropriate statutory law; that such determinations having been reasonably and properly made should not be disturbed by this Court.

Wherefore, having fully answered plaintiff's complaint, the defendants demand judgment together with the costs of this action.

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8 Filed June 24, 1955

Motion for Summary Judgment

Come now the defendants by their attorney, the United States Attorney, and move this Court for summary judgment on the grounds that:

1. The complaint fails to state a cause of action upon which this Court may grant relief.

2. There is no genuine issue of material fact and the defendants are entitled to judgment as a matter of law.

Attached hereto and made a part hereof is the record of the Immigration and Naturalization Service relating to the plaintiff.

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10 Filed Aug. 29, 1955

Findings of Fact and Conclusions of Law

This cause having come on for hearing on defendants' motion for summary judgment and plaintiff's opposition thereto, and the Court being fully apprised in the premises, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Plaintiff concedes that he is an alien.

2. Plaintiff concedes that he was a member of the Communist Party of the United States from 1932 to 1937.

3. Plaintiff was accorded a hearing in deportation proceedings by a special inquiry officer of the Immigration and Naturalization Service under a warrant of arrest charging him with being deportable from the United States as an alien who had been a member of the Communist Party of the United States after entry into the United States.

4. Plaintiff remained mute and refused to testify during the course of the entire administrative deportation hearing.

5. Plaintiff initially entered the United States on November 1, 1923, at which time he was admitted for permanent residence.

11 6. Plaintiff departed from the United States in 1937 thereby giving up any rights he had for permanent residence which he had acquired as a result of his admission to this country in 1923. He returned to this country on October 8, 1938. On this occasion after a hearing before a special board of inquiry to which he disclosed his former membership in the Communist Party, he was admitted for permanent residence a second time.

7. An order of deportation was entered by the special inquiry officer of the Immigration and Naturalization Service who presided at the hearing in deportation proceedings after the conclusion of the aforesaid deportation hearing, and plaintiff's appeal therefrom was dismissed by the Board of Immigration Appeals.

8. Plaintiff concedes that the Supreme Court has held that the statute under which the administrative deportation proceedings were held is constitutional, but claims that said statute is unconstitutional as applied to the facts in this case.

9. Plaintiff concedes that the Supreme Court has held that the procedural requirements of Sections 5, 7, 8, and 11 of the Administrative Procedure Act of 1946 do not obtain to the within deportation proceedings.

Conclusions of Law

1. The word "entry" in the applicable deportation statutes is not restricted in meaning to the "last entry".

2. The plaintiff herein was a member of the Communist Party of the United States "after entry" into the United States.

3. The statute under which the administrative deportation proceedings were held is constitutional.

4. Plaintiff is, as a matter of law, deportable as an alien who was a member of the Communist Party of the United States after entry into the United States.

5. The defendants' motion for summary judgment should be granted.

Burnita Shelton Matthews
Judge

August 29, 1955

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12 Filed Aug. 29, 1955

Order

Upon the basis of the foregoing Findings of Fact and Conclusions of Law, it is by the Court this 29th day of August, 1955,

Ordered, Adjudged, and Decreed that the defendants' motion for summary judgment be and it is hereby granted, and it is

Further Ordered, Adjudged and Decreed that the plaintiff's complaint be and it is hereby dismissed, and it is

Further Ordered, Adjudged and Decreed that plaintiff's motion for a stay pending appeal be and it is hereby denied, and it is

Further Ordered, Adjudged and Decreed that the defendants shall be restrained for a period of thirty (30) days

from the date of the entrance of the within order from taking the plaintiff into custody or effecting his deportation from the United States.

BURNITA SHELTON MATTHEWS
Judge

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service
Los Angeles 13, California

File Nos. 246-P-107614
A-1273106

In Re: FRANCESCO GUISEPPE BONETTI, a/k/a FRANK BONETTI, a/k/a FRANK MARLIN

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT:
Attorney Aubrey I. Finn,
6513 Hollywood Boulevard,
Hollywood 28, California.

CHARGES:

Warrant: The Act of October 16, 1918, as amended, in that he has been after entry, a member of the following class set forth in Section 1 of said Act: An alien who was a member of the Communist Party of the United States.

Lodged: None.

APPLICATION: None.

DETENTION STATUS: Released under $2000.00 appearance bond.

DISCUSSION AS TO DEPORTATION: The respondent testified that he is the person named in the warrant of arrest and that he was served with a copy of the warrant of arrest

(Ex. 1). Respondent refused to further testify or answer any other questions on advice of Counsel.

Witness James H. Busselle identified the respondent as the person on whom he served the warrant of arrest, and he further testified that he fingerprinted the respondent on the same date, October 11, 1951. The witness identified Exhibit 3 as a fingerprint chart executed and signed by him, and that the respondent was the person who signed this fingerprint chart.

The witness Wade H. Westmoreland testified that, in his opinion, the right index fingerprint appearing on the original Alien Registration Form AR-2 of one FRANCESCO or FRANK BONETTI, was made by the same person whose right index fingerprint appeared on the fingerprint chart marked Exhibit 3 which had been previously identified as relating to the respondent by Witness Busselle. It is clear, in the absence of any controverting evidence, that the Alien Registration Form (ex. 4) relates to the respondent in these proceedings.

Alien Registration Form AR-2 (Ex. 4) containing the signature of one FRANK BONETTI, shows that FRANK BONETTI was a member of the Communist Party from 1932 to 1936, and a member of the Workers Alliance from 1935 to 1937, a member of the Veterans of the Abraham Lincoln Brigade, and a member of the United American Spanish Aid Committee. As Alien Registration Form (Ex. 4) relates to the respondent in these proceedings as shown by the testimony of witnesses Busselle and Westmoreland, it is clear that the respondent was a member of the Communist Party from 1932 to 1936.

Witness Oral K. Chandler testified that he presented certain documents to the respondent for his inspection in January, 1951, and that the respondent examined these documents, now marked as Exhibits 5 to 9 inclusive. Witness Chandler testified that the respondent identified these documents as relating to him, the respondent. Exhibits

8 and 9 are copies on the Board of Special Inquiry hearing held in New York on September 21, 1938 and which records contain the respondent's admission of membership in the Communist Party in Los Angeles, California, and further that he resided in the United States from November, 1923 to June 28, 1937, at which time he, the respondent, departed from the United States and went to Spain where he served in the 15th International Brigade of the Spanish Army, on the Republican side. Respondent was excluded from admission to the United States by the Board of Special Inquiry at New York on September 21, 1938, but was subsequently admitted to the United States on October 8, 1938 as a quota immigrant under $500.00 bond (Ex. 11).

Exhibit 4, Alien Registration Form, shows that the respondent first arrived in the United States on November 1, 1923 for permanent residence. Exhibit number 10 is a verification of the admission of FRANCESCO BONETTI at New York, New York on November 1, 1923. Exhibit number 4 also shows that the respondent last arrived in the United States on September 19, 1938 at New York, New York, and further shows that he was admitted to the United States on October 8, 1938. Exhibit number 11 is a verification of the respondent's admission at New York, New York on October 8, 1938, under bond. Exhibit number 4 also shows that the respondent received first citizenship papers on June 1, 1940 at Los Angeles, California under the file number 23-82713. Exhibit number 14 is an application for a Declaration of Intention (first papers) bearing number 23-82713, signed by one FRANK BONETTI. The information contained in this application shows the same name, address, date and place of birth, and date and place of entry as shown in Exhibit number 4. The reverse of this application is stamped to show that it was filed June 1, 1940.

It is clear that the respondent is a 43 year old male, a native of France and citizen of Italy, who was admitted to

the United States for permanent residence at New York, New York on November 1, 1923, and who was again admitted to the United States at New York, New York on October 8, 1938. In Exhibit number 7, a statement by the respondent on February 5, 1946, he testified that he was in Mexico for one day in the early summer of 1939 and that he reentered the United States at San Ysidro, California.

The charge contained in the warrant of arrest is sustained.

FINDINGS OF FACT AS TO DEPORTATION: Upon the basis of the foregoing evidence, it is found:

(1) That the respondent is an alien, a native of France and citizen of Italy;

(2) That the respondent was admitted to the United States for permanent residence at New York on November 1, 1923;

(3) That the respondent resided in the United States from November 1, 1923 until June 28, 1937;

(4) That the respondent was readmitted to the United States for permanent residence at New York on October 8, 1938;

(5) That the respondent last entered the United States at San Ysidro, California in the early summer of 1939;

(6) That the respondent was a member of the Communist Party of the United States from 1932 until 1936.

CONCLUSIONS OF LAW AS TO DEPORTATION: Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under Section 19 of the Immigration Act of February 5, 1917, as amended, and the Act of October 16, 1918, as amended, the respondent is subject to deportation on the ground that, he has been, after entry, a member of the following class, set forth in Section 1 of said Act of

October 16, 1918, as amended: An alien who was a member of the Communist Party of the United States.

RECOMMENDED ORDER: It is recommended that the respondent be deported from the United States pursuant to law on the charge contained in the warrant of arrest.

JOSEPH A. DUMMEL,
Joseph A. Dummel,
Hearing Officer.

U. S. DEPARTMENT OF JUSTICE
BOARD OF IMMIGRATION APPEALS

Jan. 9, 1953

File: A-1273106—
Los Angeles (246-P-107614)

In re: FRANCESCO GUISEPPE BONETTI or FRANK BONETTI or FRANK MARLIN

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT:
Blanch Freedman, Esq.
220 Broadway
New York 17, N. Y.
(Heard June 17, 1952)

CHARGES:
Warrant: Act of October 16, 1918, as amended—After entry member of the Communist Party of the United States

Lodged: None

APPLICATION: Cancellation of proceedings

DETENTION STATUS: Released under bond

The Assistant Commissioner, in a decision dated March 25, 1952, directed the subject's deportation from the United States, pursuant to law, on the above-stated charge. The case is now before us on appeal from that order.

The record relates to a native of France and last a citizen of Italy who was originally admitted to the United States for permanent residence at New York on November 1, 1923. He last entered the United States at San Ysidro, California in the early summer of 1939. The Assistant Commissioner found that the respondent was a voluntary member of the Communist Party of the United States from 1932 through 1936, and directed deportation on that basis. The evidence of record sustains that finding of the Assistant Commissioner.

Counsel contends that there is nothing in the record to substantiate the finding with regard to the respondent's Italian citizenship. In this connection, we wish to point out that counsel's contention is belied by the evidence of record. Counsel has also raised the constitutional questions in this case of due process and bill of attainder. With regard to this feature of the case, it has long been the position of this Board that it is not within our province to pass on the constitutionality of such questions. We accept the legislative and judicial mandates given us, and believe that it is within the power and capacity only of the United States Courts to declare the statutes and judicial precedents unconstitutional.

On the basis of the foregoing, we concur in the decision of the Assistant Commissioner. Accordingly, we will dismiss the appeal.

ORDER: It is ordered that the appeal be and the same is hereby dismissed.

Chairman

[fol. 16] [File endorsement omitted]

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12,885

FRANK BONETTI, Appellant,

v.

HERBERT BROWNELL, JR., ET AL., Appellee.

Appeal from the United States District Court for the District of Columbia

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APPENDIX FOR APPELLEES' BRIEF—FILED APRIL 26, 1956

[fol. 22] Before the Immigration and Naturalization Service
Los Angeles 13, California

UNITED STATES DEPARTMENT OF JUSTICE

TRANSCRIPT OF HEARING

By Hearing Officer: Hearing in Deportation Proceedings, in the case of FRANCESCO GUISEPPE BONETTI, also known as FRANK BONETTI, FRANK MARLIN.

Alien File No. A1 273 106.

Los Angeles No. 246-P-107614.

Place of Hearing: Los Angeles, California.

Date of Hearing: October 30, 1951.

Persons Present:
Hearing Officer: Joseph A. Dummel.

[fol. 23] Examining Officer: Thomas Nolan.

Respondent: Francesco Guiseppe Bonetti.

Attorney: Aubrey I. Finn, 6513 Hollywood Blvd., Hollywood 28, Calif.

Stenographer: Caron Rhodes.

Hearing conducted in the English Language and recorded by Dictaphone.

Hearing Officer to Respondent:

Q. Will you rise and be sworn?
A. By Counsel: We object to the respondent's being sworn at this time. We don't think the Government has any right to call the respondent as a witness in his behalf.

To Counsel:

Q. Are you advising the respondent not to be sworn, counsel?
A. At the moment I am making it as an objection.

Hearing Officer: The objection is overruled.
The respondent is directed to stand and be sworn.
Counsel: I am advising the respondent and instructing him that he need not be sworn or testify as a witness in this proceeding at this time.

* * * * * * *

Examining Officer: At this time I wish to call my witness, Mr. Chandler.

Hearing Officer to Witness:

Q. Will you raise your right hand. Do you solemnly swear that your testimony in these proceedings shall be the truth, the whole truth, and nothing but the truth, so help you God?
A. I do.
Q. What is your true and correct name?
A. Oral Kenneth Chandler.

To Witness: Be seated, please.
To Examining Officer: You may proceed.

[fol. 24] Examining Officer to Witness:

Q. Mr. Chandler, what is your occupation?

A. I am an investigator for the Immigration and Naturalization Service.

Q. What is your present official station?

A. Los Angeles, California.

Q. How long have you been stationed in Los Angeles, California?

A. I have been assigned to this station since September of 1949.

Q. During the course of your duties as an investigator, Mr. Chandler, did you have an occasion to become acquainted with the respondent in these proceedings, who sits at the table next to counsel.

A. I know this individual as FRANK BONETTI.

Q. What are the circumstances surrounding your acquaintanceship with him?

A. I was assigned Mr. Bonetti's case for investigation, and in the course of that investigation I interviewed Mr. Bonetti. That is the reason for my acquaintance with him.

Q. When did this interview take place?

A. In January of this year.

Q. Where?

A. In my office, Room 133 of this building.

Q. Did you have occasion at that time to question Mr. Bonetti concerning his immigration status?

A. I did.

Q. What did you ask him?

A. At that time I presented to Mr. Bonetti statements which he had previously made before this Service. I asked him to examine them and state whether they related to him, which he did. In addition to that he examined and acknowledged his Alien Registration record. In the course of the interview he further contributed such information as his present residence, his present employment, his marital status, the fact that he had been a member of the Communist Party of the United States from about 1932 to sometime in 1937.

• • • • • • •

[fol. 25] EXHIBIT 5

U. S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Los Angeles, California.

L.A. File 246/P/107614

Investigation in the Case of: Francesco Guiseppe Bonetti, or Frank Bonetti, Petitioner for Naturalization.

Interview conducted in the Offices of the Immigration and Naturalization Service, Los Angeles, California, May 30, 1944.

Present:

Lloyd C. Emerick: Immigrant Inspector.

Edythe D. Marusa: Stenographer.

Francesco Guiseppe: Witness.

By Inspector Emerick to Witness:

Q. You are informed that I am a United States Immigrant Inspector and authorized by law to administer oaths in connection with the enforcement of the Immigration and Naturalization Laws. I desire to take a statement from you in connection with your petition for naturalization filed in the United States District Court, Los Angeles, California, May 19, 1943. Any statement which you make should be voluntary, and you are hereby warned that any statement which you do make may be used against you or others in any proceeding the Government may see fit to institute. Are you willing to answer questions or make statements under these conditions?

A. Yes.

* * * * * * *

Q. When and where did you first enter the United States?

A. I entered the United States the first time in 1923 at New York.

Q. When did you last enter the United States?

A. I last entered the United States October 8, 1938 at New York on the S.S. "Di Grasse".

[fol. 26] Q. At the time you last entered the United States, were you admitted for permanent residence?

A. Yes.

Q. Were you admitted upon your arrival at New York or were you detained for special hearing?

A. I was detained at Ellis Island for 18 days I believe.

Q. Did you have a hearing before a Board of Special Inquiry?

A. Yes, before three men.

Q. Were you required to give testimony under oath at that time?

A. I was and I did.

Q. Do you remember being sworn to all the statements you set forth?

A. Yes, I was sworn.

Q. What was the decision of the Board at that time?

A. I was detained because I was disabled when I entered, and the decision was that I post a $500.00 bond. The decision was referred to Washington; I am not sure whether they decided themselves or Washington decided I post the $500.00 bond.

Q. Were you admitted to the United States upon posting the said $500.00 bond?

A. Yes, I was.

Q. Do you recall any of the questions asked you or your answers given at the time you were held for hearing before the Board of Special Inquiry?

A. Yes, I do remember some.

Q. Do you recall being asked whether or not you had ever been on relief of any kind or received public aid?

A. I believe I was asked that.

Q. Do you recall your answer to the question of you having received aid or relief?

A. If I had been asked that, it would be "yes" because I had been on the W.P.A. and S.R.A.

Q. Do you recall any occasion when you answered "no" to such question?

A. Up to that time, "no" but later on I had a hearing

[fol. 27] between the period including only the time after I came back, and then I answered, "no."

* * * * * * *

Q. How many times have you been arrested?

A. Once: at that time only.

Q. What was the charge on which you were arrested?

A. Rioting.

Q. Do you recall the exact date of your arrest?

A. No, I believe it was 1934 or 1933.

Q. Could it have been May 30, 1933?

A. That is right.

Q. Could the charge have been assault with a deadly weapon?

A. Yes, that was in it too; that came out of the riot.

Q. Do you recall whom you assaulted at this time?

A. It was a general fight; I can't remember exactly who it was, but I think it was a Marine.

Q. Is it true that you assaulted a U. S. Marine during a Communist meeting at San Diego, California?

A. That is right.

Q. What type of weapon did you use to assault the United States Marine?

A. A Piece of wood.

Q. No Knife?

A. No, no knife or anything like that; one of those posts we had with slogans on it.

Q. Do you recall whether or not you made any bodily injury on the person of the United States Marine?

A. No; there was no injury at all that I know of.

Q. Do you recall the disposition of your case at that time?

A. The case was dismissed.

Q. Can you explain exactly why you were arrested May 30th, 1933?

A. It was a Memorial Day meeting in the park at San Diego and prior to that, the committee that organized the meeting had asked permission from the City Council to march from the park to a church where we would have [fol. 28] Memorial Day Service later on. Later on that permit was rejected the last minute. The meeting went on in the

park without any difficulty or anything. Several speakers spoke at the meeting in the park. From there, we decided to go to the church. Since we were not allowed to parade in the street, we decided to walk down the sidewalk going to the church. As we started out, the Marine who was there and other Legionnaires also and policemen jumped right in the crowd of people and started pushing people around, tearing down signs we had, and from there, a general fight started and I was arrested with several others.

Q. Was this a Communist meeting?

A. It was not a Communist meeting in the sense it was limited to Communist members only; it was sponsored by the Young Communist League and it was Memorial Day meeting, honoring the American dead.

Q. Were the signs displayed at this meeting entirely Communistic?

A. The signs as much as I can remember were anti-war signs or signs asking relief for unemployed rather than going along and building up the Navy—that money should go to the unemployed.

Q. Were you a member of the Communist Party at that time, May 30, 1933?

A. Yes, I was a member of the Communist Party.

Q. Do you recall to which unit you belonged?

A. It is pretty hard to tell the number; I don't remember.

Q. Do you remember the book number you held?

A. No, I don't remember.

Q. I now present to you Communistic record of one Francesco Guiseppe Bonetti, age 26, in 1934 joined the Communist Party October, 1932, member of unit 4, Book No. 2133 and desire to ask you whether or not this record related to you?

A. I wouldn't know about the number, but I admit I was a member of the Communist party then.

Q. Did you pay regular dues to the Communist Party at that time?

A. Yes.

[fol. 29] Q. When did you discontinue paying dues to the Communist Party?

A. April, 1936.

Q. Did you understand the principles of the Communist

Party at the time you joined the Communist organization in 1932?

A. I had certain ideas, yes.

Q. Why did you discontinue your membership in the Communist Party in 1936?

A. I left Los Angeles before that; I lost contact with members; I went to work in the agricultural fields and when I came back, I didn't bother to sign up again.

Q. Do you understand the principles of Communism?

A. They believe in public ownership in means of production.

Q. Do you believe in Communism?

A. In the public ownership in the means of production, I don't think it is a very bad idea; many things are already socialized now, post offices, schools, etc., and whether that system could be extended—it probably could.

Q. Do you believe Communism to be a good form of government?

A. It depends on many things, like there are many forms of capitalistic government; the United States Government is capitalistic, so is the British, French, South Americas. Among these governments some are good; the United States is good; some are strictly dictatorships, like some of the South American countries and European countries. Under Communism, there probably would be a variety of types of governments; like among capitalistics, some bad; it is up to the people in that country to make it good.

Q. Do you believe in a change in government through Communistic principles?

A. The Communist Party, the way I understand it, did not aim at that time, exactly to change. We understood to change the government, the majority of the people would have to want that change. Unless that vast majority wanted the change, there was no chance of it. The Com- [fol. 30] munist Party, itself did not aim to change the United States Government by itself.

Q. Do you believe a change, if necessary should be by force, as advocated by the Communist Party, even if there were a majority?

A. If the majority wanted it, then the force is not necessary. Should a vast majority of the people of the United

States want a change of the government and some minority would deny them the right of that change, force would be necessary then.

Q. Under the circumstances, then do you believe in force and the operation of force?

A. Yes.

Q. Do you subscribe to any Communist publication at the present time?

A. No.

Q. Did you ever subscribe to any Communist publication?

A. I never did subscribe to it; I used to buy the People's World; it was then the Western Worker.

Q. Have you ever distributed Communist literature?

A. When I was a member of the party.

Q. During the period of time you belonged to and took active part in the Communist Party from 1932 to 1936, did you distribute any literature regarding Communism?

A. I did.

Q. Do you belong to any organizations at the present time?

A. I am a member of the Veterans of the Lincoln Brigade; it has a New York address, but I don't know it. We don't have one here.

Q. Do you have your membership card with you at this time?

A. No; it isn't a strict organization. All men who fought in Spain are members automatically.

Q. During what period of time did you reside in Spain after you left the United States?

A. From July 14, 1937 to July 14, 1938, exactly one year. [fol. 31] Q. Were you actively engaged in the Fascist uprising under General Franco?

A. I was fighting against the Facist uprising, against General Franco.

Q. Do you mean by that statement you were actively engaged in the Spanish Civil War?

A. I was actively fighting for the Spanish Republic.

Q. What induced you to take up arms in defense of the Spanish government?

A. I decided to go to Spain and fight for the Spanish republic, because I understood that the rebellion of Franco

against the republic was actually an attack against the republic of Spain by Mussolini and Hitler who used Franco as a tool. If the Axis uprising, comprising Rome and Berlin was not stopped, they would go on from country to country until the World War would start.

Q. In connection with your statement concerning the faction represented by Franco, what were the policies advocated by the opposing faction?

A. The general policies of the Spanish republic were reformist in the sense that they gave land to the peasants. They established the 8-hour day; they increased wages, opened up public schools and there was generally a progressive government in Spain; about Franco, the other faction, I haven't read any of their platforms that they may have; the only thing I know is that he was tied up with Hitler and Mussolini and regardless of what their platform would have been it would mean nothing because anything Hitler, Mussolini and Franco has promised never did mean anything.

Q. Is it true that the Spanish Republican faction was financed in part and assisted in many ways by Communistic factions and organizations?

A. The Spanish republic had the help of practically every labor and trade union, Socialist parties, Communist parties and as expressed in the Gallup Poll, believe about 77% of the American people were for the Spanish Republic.

[fol. 32] Q. Did you engage actively in combat duty during the Spanish uprising?

A. I did.

Q. Were you wounded or otherwise disabled as a result of this military service?

A. I lost a foot in Spain.

Q. Was it necessary for you to designate yourself as a citizen of Spain and take the oath of allegiance to Spain in connection with your service?

A. No, it wasn't.

Q. At the time you joined the Spanish Republican army in July, 1937, of what country did you claim to be a citizen or subject?

A. I thought at that time I was French since I was French born.

Q. After the conclusion of your service with the Spanish Republican army, for what type of passport did you apply?

A. The Consul in Paris asked me to go to the Italian Consul because my parents were Italian and apply there for a passport. The passport was denied and the American Consul made out a paper in lieu of a passport under which I entered the United States.

Q. What citizenship was claimed and listed in connection with your entry into the United States October 8, 1938?

A. If I remember right, on the paper was, Race, Italian; Nationality, none. I don't remember exactly how it was put in. It was neither citizenship of Italy or a citizen of France.

Q. Of what country do you presently claim to be a citizen or subject?

A. Now, I understand I am an Italian citizen.

* * * * * * *

Q. According to our records, you made applications for unemployment on two different occasions: in 1935 and 1936. Were you a member of the Communist Party at the time you executed your first application for unemployment relief?

A. In 1935; yes.

[fol. 33] Q. Did you ever hold any office in connection with your membership in the Communist Party at Los Angeles, California?

A. I have held several, if you want to call them offices. The unit was a group of about 10, 15, 5, always changing in numbers. Three of us were known as officers, organizer, secretary and educational director. From time to time, I have held all three offices in such a small group.

Q. Have you ever solicited membership in the Communist Party?

A. Yes, I did.

Q. At the time you belonged to the Communist Party from 1932 to 1936, did you believe in Communism?

A. I had some ideas as to what Communism is, which ideas were not the same as some of other people's ideas about Communism.

Q. Did you ever pass out or distribute any Communist literature?

A. Yes, I did.

Q. Did you at that time believe in the policies advocated by the Communist Party?

A. I believed at that time in the policies advocated by the Communist Party, but here too, it must be understood that my ideas as to the philosophy and policy of the Communist Party do not coincide with the ideas that—say, Mr. Dies, has stated often; for instance, I did not believe that the Communist Party stood for the forceful over-throw of the American Government. The Communist Party was perfectly legal and had I done anything breaking the laws of the United States or California, I could have been punished for it.

Q. In connection with the policies of the Communist Party and the principles of Communism, you were, previously during this hearing, asked the following question: "Do you believe a change, if necessary should be by force, as advocated by the Communist Party, even if there were a majority?" and you answered as follows: "If the majority wanted it, then the force is not necessary. Should a vast majority of the people of the United States want a [fol. 34] change of government and some minority would deny them the right of that change, force would be necessary then." I desire to ask you at this time, do you believe under these conditions in the over-throw of the United States Government by force?

A. The American people have a constitutional right to change their government anytime they so wish it. At times in history, force can be very beneficial. As an example, when the thirteen original American Colonies wanted more representation from the British kings, which was denied them constantly over a long period of time; in that case, force became inevitable and beneficial. Today, we have an example in Germany where the Nazi Party instituted a dictatorship over the German people and allows no free expression from the German people. It becomes a duty of the German people to use force against their government. In such a case, force is acknowledged advisable and necessary.

Q. In such, or any situation in the United States, where a change of government is desired, would you advocate a use of force by the people of the United States for the purpose of overthrowing the United States Government?

A. Force cannot and should not be used on any slightest pretext. A revolution can only grow out of long processes of injustice and oppressions. Such injustice and oppressions are not now present in the United States and no force would be justified against the United States Government as presently constituted.

Q. If a change in the United States Government became necessary under these conditions, do you believe a revolution should be advocated and that the change should be secured by the overthrow of the United States Government by force?

A. I would not believe in a case like that, because the injustices are only temporarily due to a depression, with the means open to the American Government to rectify any such injustices so that force is certainly not necessary.

Q. Do you believe a situation could ever exist where [fol. 35] force would be necessary in order to secure a change in the United States Government?

A. I don't believe such a situation could arise in America; no.

Q. If such a situation should ever arise in the United States, would you then believe in the over-throw of the United States Government by force?

A. If a situation would come about in the United States where a party comparable to the National Socialist in Germany would take power and deny all means of expression to the American people and institute wide scales of injustice, oppressions and imperialistic qualities, like Germany is doing now, it would then be the duty of the American People, and I would be one, to overthrow such a government by force if such were necessary.

Q. Do you presently believe in the principles of the Communist Party?

A. I haven't been connected with the Communist Party since 1936 and I have no idea what policy they have now. I believe now, from what I see in the daily papers, the Communists are supporting the war—I do myself—I don't

know of any other activity that the Communist Party is engaged in right now. By the way, I don't believe there is any more Communist Party.

Q. Do you believe in Communism?

A. My idea of Communism is the common ownership of the wealth of the Country for the means of production. The U. S. Government is now owning and operating large institutions like schools, postoffices, dams, parks and many things, even industrial plants. I believe that is good and I believe of extension of that policy would be very beneficial to the Country, but that is not to mean that the United States Government should own every private house, private cars, and individual property. It only refers to large utilities, like railroads, communicating utilities, telephone wires and things which are very vital to the welfare of the American People.

Q. Do you believe the U. S. Government should be set up according to the principle you have just outlined?

[fol. 36] A. I believe it would be beneficial to the American people to own those things, yes.

Q. Do you believe the U. S. Government should operate on that principle?

A. I believe it would be a good idea; yes.

Q. Do you know whether or not the Communist Party advocates such a policy now?

A. At the time I was a member they did. From what I have seen in the paper, I don't believe the Communist Party is advocating such a policy now, but I am not sure about it.

Q. Do you subscribe to any Communist publications or do you purchase any Communist publications such as the People's World?

A. No.

Q. Do you read any Communist publications of any kind, such as the People's World?

A. No; all I can say, occasionally I might get hold of one in two or three months.

Q. Have you ever discussed Communism with any of your friends and neighbors?

A. When I was working at the hotel, 702 West 3rd Street,

I believe discussions came up once in awhile; I believe we had discussions, very informally, that came up like that.

Q. Have you been absent from the United States since your last entry for permanent residence October 8, 1938?

A. No.

Q. Ever gone to Mexico?

A. No.

Q. Did you ever go for a visit to Tijuana, Mexico?

A. I believe I did go; I think it was about 1941.

Q. Do you know the month?

A. No.

Q. How about September?

A. I guess it could be; it was in the summer.

Q. How long were you absent from the United States in 1941?

A. I think we slept over night there and came back the following day.

[fol. 37] Q. Did you have in your possession a border crossing card or other document which would permit your entry into the United States?

A. I had my paper of entry with my photograph on it; nobody asked for it. I didn't show it.

Q. Were you inspected and admitted by a United States Immigrant Inspector at that time?

A. No; no questions were asked; we just drove through and back.

* * * * * * * *

EXHIBIT 6

U. S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Los Angeles 13, California

246/P/107614

Investigation in the Case of: Frank Bonetti; Petitioner for Naturalization.

Investigation conducted in the Offices of the Immigration and Naturalization Service, Los Angeles, California. January 21, 1946.

Present:

Lloyd C. Emerick: Immigrant Inspector.

Edythe D. Marusa: Stenographer.

Frank Bonetti: Witness.

By Inspector Emerick to Witness:

* * * * * * *

Q. When and where did you last enter the United States?

A. I entered at New York, Oct. 8, 1938 with the exception of the day I went down to Lower California.

Q. Have you been absent from the United States since your last entry at New York, Oct. 8, 1938?

A. Yes, I was absent one day.

Q. Do you recall the exact date you were absent from the United States?

A. No, I don't; it was in the summer of 1939, I believe. [fol. 38] Q. At what port did you reenter the United States?

A. Down by Tijuana (San Ysidro, California.

Q. How did you effect your reentry into the United States?

A. I did not go through any legal proceeding at the time; none was necessary; I crossed both ways and no questions were asked.

Q. Did you claim at the time of your entry to be a citizen of the United States?

A. No, I didn't.

Q. Were you questioned by an official of the Immigration and Naturalization Service concerning your alienage?

A. No, I wasn't.

Q. Do you mean, you were not questioned upon your return to the United States in the summer of 1939?

A. No, I wasn't questioned.

* * * * * * *

Q. Since your last entry at New York, Oct. 8, 1938, have you attended any Communistic meetings?

A. No.

Q. Have you rejoined the Communist Party since your last entry Oct. 8, 1938?

A. No.

Q. Have you in any way at any time since your last entry, been connected with the Communist Party?

A. No.

Q. Do you presently receive any Communist Party publications?

A. No.

Q. Do you subscribe to the People's World?

A. No.

Q. Has any person requested that you rejoin the Communist Party since your last entry, Oct. 8, 1938?

A. When I first came back from Spain, I was asked if I would want to join again.

Q. Why have you not joined the Communist Party?

A. I just did not feel like it.

Q. Was your refusal to join because you had discontinued [fol. 39] believing in all the beliefs or policies of the Communist Party?

A. No, I just told them I didn't want to join any more. I didn't give them any reason. The second question you asked, whether or not I didn't believe in all the principles of the Communist Party; I never thought when I was a member of the Communist Party, that there was anything illegal or unconstitutional in the aims or policies of the Communist Party.

* * * * * * *

EXHIBIT 8

EC-10

BONETTI, FRANCESCO

30 m. single

stateless Italian

Before a Board of Special Inquiry held at Ellis Island, New York Harbor, N. Y., September 21, 1938.

Present: Messrs. Kaba (Chmn.), Galvin and Bishara.

LPC PD Insp. John F. Wright.

S. I. 2—SS De Grasse—Fr. Line September 19, 1938.

Delivered at Ellis Island September 20, 1938. 11 AM.

3rd class.

$80. No relatives.

Going to 121 W. Ann St., Los Angeles California.

Medical certificate dated September 19, 1938. This is to certify that the above described person has this day been examined and is found to be afflicted with LOSS OF LEFT FOOT and PART OF LEG which may affect ability to earn a living. Detectability clause will be accomplished on request provided alien has been or will be admitted to hospital. (sgd.) H. F. White.

Alien sworn by Insp. Kaba, testified in English:

Q. What is your full and correct name?
A. Francesco Bonetti.

• • • • • • •

[fol. 40] Q. Why did you leave the U. S. June 28, 1937?
A. To go to Spain.
Q. Do you mean to fight in the army?
A. Yes.
Q. Did you join the Spanish Army?
A. I did.
Q. On what side did you fight?

A. Republican side.
Q. What was your organization there?
A. Fifteenth International Brigade.

• • • • • • •

Q. How long did you serve in the army there?
A. One year.
Q. What was your rank?
A. Soldier.
Q. Why did you leave the army?
A. Because I am wounded. I lost my foot.

• • • • • • •

Q. Did you ever belong to a club, organization, society or association?
A. Yes.
Q. Give me the names of them?
A. I belonged to the Workers Alliance in Los Angeles on the corner of Second and Broadway.
Q. Are you still a member there?
A. No.
Q. What else?
A. I was a member of the Communist Party for a while.
Q. What unit?
A. It was Unit 19.
Q. Where was it located?
A. In the general neighborhood between Temple and Sunset.
Q. Where was the meeting place, the office, where you paid your dues?
A. We met in private houses. There is no office.
[fol. 41] Q. Who was the head of that unit?
A. At the time, I was myself for a time.
Q. How many people were you in charge of?
A. Twelve—fifteen.

• • • • • • •

Q. Was your unit part of the Communist Party of the state of California?
A. Naturally.
Q. And was the Communist Party of the State of California a member of the Communist party of America?
A. Yes.

Q. And is the Communist Party of America a section of the Communist International?

A. As far as I know, yes.

Q. So a member of the Communist Unit #19 in Los Angeles is automatically a member of the Communist International, is he not?

A. Yes.

• • • • • • •

Q. Have you ever been arrested?

A. I was arrested once.

Q. When were you arrested?

A. In 1933 in San Diego, I think it was in March. It might have been April.

Q. Why?

A. Peace Day Demonstration there.

Q. What disposition was made of your case?

A. The case was dismissed.

Q. How long did they keep you locked up?

A. Ten days.

Q. You mean ten days before the trial came up?

A. Yes.

Q. Have you been arrested any other time?

A. No.

• • • • • • •

[fol. 42] Q. The doctors at this station certified you as being afflicted with loss of left foot and part of leg which may affect your ability to earn a living. Do you wish to make a statement now?

A. No but in relation to the Communist Party, I want to state I am not a member of it any more.

Q. When did you cease to be a member?

A. In the spring of 1937.

Q. You mean just about when you went to Europe to fight for Spain?

A. A few months before that.

• • • • • • •

[fol. 43] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12,885

FRANK BONETTI, Appellant,

v.

HERBERT BROWNELL, JR., Attorney General of the United States, et al., Appellees.

Appeal from the United States District Court for the District of Columbia

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Mr. David Rein, with whom *Mr. Joseph Forer* was on the brief, for appellant.

Mr. Harold H. Greene, Assistant United States Attorney, with whom *Messrs. Oliver Gasch*, United States Attorney, and *Lewis Carroll*, Assistant United States Attorney, were on the brief, for appellees. *Mr. Leo A. Rover*, United States Attorney at the time record was filed, also entered an appearance for appellees.

Before WASHINGTON, DANAHER and BASTIAN, Circuit Judges.

OPINION—December 27, 1956

BASTIAN, *Circuit Judge*: This is an appeal from a judgment of the District Court granting appellees' motion for summary judgment and dismissing appellant's complaint, which had been filed to secure a review of an order of deportation entered against appellant and for injunctive relief.

[fol. 44] Briefly stated, the facts are as follows:

Appellant first entered this country for permanent residence on November 1, 1923. In 1937, he left the United States to fight in the Spanish Civil War as a member of the Abraham Lincoln Brigade. On October 8, 1938, he

returned to this country and, after a special hearing, in the course of which he testified to Communist Party membership on his part from 1932 to 1936, he was admitted a second time for permanent residence. Appellant left the country for one day and re-entered in the summer of 1939. He was, in no sense of the word, a "nominal" communist. While a member of the party, he held offices in a party unit and was its head at one time; but there is no evidence of his having been a member since he last came to the United States.

The Immigration and Naturalization Service instituted proceedings against appellant which resulted in a final administrative order that he was subject to deportation as an alien who had been a member of the Communist Party of the United States following entry into this country, as provided by 8 U.S.C. § 1251(a). This statute, so far as is pertinent here, provides that any alien who was, "after entry" into the United States, a member of the Communist Party of the United States shall be deported pursuant to statutory procedures. "Entry" was defined in the Act as "any coming" into this country.

Appellant sought judicial review of the deportation order, contending in effect that the term "entry" as used in the statute should be construed to mean "last entry," and that, if so construed, the record could not support a deportation order, there being no evidence of membership in the Communist Party after appellant's last entry.

Both parties rely on *United States ex rel. Volpe* v. *Smith*, 289 U.S. 422 (1933), and agree that the statutory definition of entry as "any coming" is taken from that decision.

Volpe was an alien who legally entered the United States in 1906, and who, in 1925, was convicted of a crime [fol. 45] involving moral turpitude. In 1928 he visited Cuba, returning the same year. In 1930, the immigration authorities sought to deport Volpe on the theory that he had been convicted of a crime of moral turpitude prior to entry. Thus, conduct *prior to entry* was the basis for deportation whereas here the basis was conduct *after entry*. In *Volpe*, the alien argued that entry meant original entry and that his last entry could not be used as

the basis for finding a conviction of crime "prior to entry." The Supreme Court, however, declared entry to mean ". . . any coming of an alien from a foreign country into the United States whether such coming be the first or any subsequent one."

United States ex rel. Belfrage v. *Kenton*, 224 F.2d 803 (2d Cir. 1955) seems to us precisely in point here. Belfrage entered the United States in 1937 for permanent residence. After receiving a re-entry permit, he went abroad in 1944. While abroad his re-entry permit expired but, in 1945, he was allowed to re-enter this country as a returning alien resident. In 1953, the immigration authorities took action to deport him because he had been a member of the Communist Party after his entry in 1937 (his first entry), though there was no evidence of party membership after his last entry in 1945. The District Court held that a first entry was an entry within the meaning of the statute and that, therefore, Belfrage was deportable. On appeal, the Second Circuit affirmed, saying that each time Belfrage came into the United States from abroad there was an entry within the statutory meaning of the term. The appellate court regarded this conclusion as dictated by the decision in *Volpe*.

Holding, as we do, that the word "entry" as used in 8 U.S.C. § 1251(a) means "any coming of an alien from a foreign country into the United States whether such coming be the first or any subsequent one," it follows that the judgment of the District Court should be and is

Affirmed.

[fol. 46] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12,885, October Term, 1956.

C. A. 4606—53

FRANK BONETTI, Appellant,

v.

HERBERT BROWNELL, JR., Attorney General of the United States, et al., Appellees.

Appeal from the United States District Court for the District of Columbia.

Before: Washington, Danaher and Bastian, Circuit Judges.

JUDGMENT—December 27, 1956

This cause came on to be heard on the record from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof, It is ordered and adjudged by this Court that the judgment of the said District Court appealed from in this cause be, and the same is hereby, affirmed.

Dated: December 27, 1956.

Per Circuit Judge Bastian.

[fol. 48] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 49] SUPREME COURT OF THE UNITED STATES

No. 94, October Term, 1957

FRANK BONETTI, Petitioner,

v.

HERBERT BROWNELL, JR., Attorney General of the United States, et al.

ORDER ALLOWING CERTIORARI—December 16, 1957

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted, and the case is transferred to the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 50] SUPREME COURT OF THE UNITED STATES

No. 94, October Term, 1957

FRANK BONETTI, Petitioner,

v.

HERBERT BROWNELL, JR., Attorney General of the United States, et al.

ORDER OF SUBSTITUTION—January 6, 1958

On Consideration of the motion to substitute William P. Rogers, Attorney General of the United States as party respondent in the place and stead of Herbert Brownell, Jr., resigned, in this case,

It Is Ordered by this Court that the said motion be, and it is hereby, granted.